

ARKANSAS SUPREME COURT

No. 08-433

KARON D. TROTTER, JR. and \$31,130
Appellants

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered March 12, 2009

PRO SE MOTIONS FOR EXTENSION
OF TIME TO FILE APPELLANT'S
BRIEF AND FOR LEAVE TO
SUPPLEMENT RECORD [CIRCUIT
COURT OF DREW COUNTY, CV 2005-
56]

MOTION FOR EXTENSION OF TIME
GRANTED; MOTIONS TO
SUPPLEMENT RECORD DENIED.

PER CURIAM

The State of Arkansas brought a forfeiture complaint against certain currency seized from appellant Karon D. Trotter, Jr., or from his banking accounts, and the circuit court closed the account after ordering forfeiture of a portion of the money and the return of the remainder to appellant. Although he was apparently represented by counsel during those proceedings, appellant filed a pro se notice of appeal in the circuit court and has lodged the record in this court.

Appellant previously filed pro se motions requesting, and this court granted, an extension of time for the filing of appellant's brief. *Trotter v. State*, 08-433 (Ark. Nov. 6, 2008) (per curiam). Appellant filed another motion for extension of time within the time required for filing his brief and two separate motions seeking leave to supplement the record with a number of documents and transcripts from other proceedings.¹ Appellant has since tendered his brief. The motion for

¹ Appellant seeks to include transcripts of hearings from his criminal trial and references testimony concerning child support payments, although it is not clear as to the proceedings in which the testimony concerning support occurred.

extension of time is granted and our clerk is directed to file the brief.

In his motions to supplement, appellant requests permission to supplement the record with documents that appellant included in the addendum of his brief. The majority of those documents appear to have been filed with the circuit court in this matter after the date the order was signed, if at all. The scope of our review on appeal is limited to matters that have been argued to the court below, and this court has repeatedly stated that we will not address arguments, even constitutional arguments, raised for the first time on appeal. *Jones v. Ark. Dep't Human Servs.*, 361 Ark. 164, 205 S.W.3d 778 (2005); *see also Dowty v. State*, 363 Ark. 1, 210 S.W.3d 850 (2005). We therefore may not consider matters outside of the record. *See Miles v. State*, 350 Ark. 243, 85 S.W.3d 907 (2002). We will not review evidence that was not presented to the fact-finder below. *Jacobs v. State*, 316 Ark. 96, 870 S.W.2d 740 (1994) (per curiam).

Because the documents were not filed in the trial court prior to its decision, appellant has not shown that those items may properly be included in the record. As to the few remaining documents that appear to have been filed prior to the date of the decision, appellant has not demonstrated in his motion that those items would have any relevance to issues as argued to the court below in the matter.

As to the transcripts, we note that, because it is a part of the public record already filed with the appellate court in the earlier appeal, the trial record may be included as a part of the record before us without need to supplement the record. *See Drymon v. State*, 327 Ark. 375, 938 S.W.2d 825 (1997) (per curiam). But, appellant has not demonstrated that those transcripts were before the court below in these proceedings or that the relevance of the contents of those transcripts was argued to the court. Accordingly, we deny the motions to supplement the record.

Motion for extension of time granted; motions to supplement record denied.